

(3) The aggregate cost of the State's comprehensive drunk driving prevention programs.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit, in addition to the data identified in paragraph (h)(3)(i)(B) of this section, a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

[71 FR 20568, Apr. 21, 2006]

#### **§ 1313.7 Requirements for a high fatality rate state.**

To qualify for a grant as a high fatality rate State, the State shall be among the ten States that have the highest alcohol-related fatality rates, as determined by the agency using the most recently available final FARS data as of the date of the grant. The agency plans to make this information available to States by June 1 of each fiscal year.

(1) *Demonstrating compliance.* To demonstrate compliance in each fiscal year a State qualifies as a high fatality rate State, the State shall submit a plan for grant expenditures that is approved by the agency and that expends funds in accordance with § 1313.4. The plan must allocate at least 50 percent of the funds to conduct a high visibility impaired driving enforcement campaign in accordance with § 1313.6(a) and include information that satisfies the planning requirements of § 1313.6(a)(3)(iii).

[71 FR 20568, Apr. 21, 2006]

#### **§ 1313.8 Award procedures.**

In each Federal fiscal year, grants will be made to eligible States that satisfy the requirements of § 1313.4(a), subject to the requirements of § 1313.4(b) and (c). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year.

[71 FR 20568, Apr. 21, 2006]

#### **APPENDIX A TO PART 1313—TAMPER RESISTANT DRIVER'S LICENSE**

A tamper resistant driver's license or permit is a driver's license or permit that has

one or more of the following security features:

- (1) Ghost image.
- (2) Ghost graphic.
- (3) Hologram.
- (4) Optical variable device.
- (5) Microline printing.
- (6) State seal or a signature which overlaps the individual's photograph or information.
- (7) Security laminate.
- (8) Background containing color, pattern, line or design.
- (9) Rainbow printing.
- (10) Guilloche pattern or design.
- (11) Opacity mark.
- (12) Out of gamut colors (*i.e.*, pastel print).
- (13) Optical variable ultra-high-resolution lines.
- (14) Block graphics.
- (15) Security fonts and graphics with known hidden flaws.
- (16) Card stock, layer with colors.
- (17) Micro-graphics.
- (18) Retroflective security logos.
- (19) Machine readable technologies such as magnetic strips, a 1D bar code or a 2D bar code.

### **PART 1327—PROCEDURES FOR PARTICIPATING IN AND RECEIVING INFORMATION FROM THE NATIONAL DRIVER REGISTER PROBLEM DRIVER POINTER SYSTEM**

Sec.

- 1327.1 Scope.
- 1327.2 Purpose.
- 1327.3 Definitions.
- 1327.4 Certification, termination and reinstatement procedures.
- 1327.5 Conditions for becoming a participating State.
- 1327.6 Conditions and procedures for other authorized users of the NDR.
- 1327.7 Procedures for NDR information requests.

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS, WITHDRAWALS, AND CONVICTIONS OF MOTOR VEHICLE-RELATED OFFENSES

APPENDIX B TO PART 1327—OMB CLEARANCE

AUTHORITY: Pub.L. 97-364, 96 Stat. 1740, as amended (49 U.S.C. 30301 *et seq.*); delegation of authority at 49 CFR 1.50.

SOURCE: 56 FR 41403, Aug. 20, 1991, unless otherwise noted.

**§ 1327.1 Scope.**

This part provides procedures for States to participate in the National Driver Register (NDR) Problem Driver Pointer System (PDPS) and for other authorized parties to receive information from the NDR. It includes, in accordance with section 204(c) of the NDR Act of 1982 (Pub. L. 97–364), procedures for a State to notify the Secretary of Transportation of its intention to be bound by the requirements of section 205 of the Act (*i.e.*, requirements for reporting by chief driver licensing officials) and for a State to notify the Secretary in the event it becomes necessary to withdraw from participation. The rule also contains the conditions for becoming a participating State as well as conditions and procedures for other authorized users of the NDR.

**§ 1327.2 Purpose.**

The purpose of this part is to implement the NDR Act of 1982, as amended.

**§ 1327.3 Definitions.**

(a) *Any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve* includes a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard.

(b) *Driver history record* means a detailed description of an individual's driver record, used in the American Association of Motor Vehicle Administrators' Commercial Driver's License Information System (CDLIS).

(c) *Driver improvement purposes* means information requests made by chief driver licensing officials in connection with the control and rehabilitation of drivers who are, based on their records, suspected of being or known to be problem drivers.

(d) *Driver license abstract* means the complete driver history of a driver's convictions, revocations, suspensions, denials, cancellations, accidents and interactions with the driver control and driver improvement authorities. Also known as Motor Vehicle Record (MVR) or Transcript.

(e) *Driver licensing purposes* means information requests made by chief driver licensing officials to determine if individuals applying for original, re-

newal, temporary, or duplicate licenses have had their driving privileges withdrawn in some other State.

(f) *Driver status response* means a response which indicates whether a driver currently holds a valid license.

(g) *Employers or prospective employers of motor vehicle operators* means persons that hire one or more individuals to operate motor vehicles on a regular basis during their normal course of employment.

(h) *For cause* as used in § 1327.5(a) means that an adverse action taken by a State against an individual was based on a violation listed in Appendix A, Part I, an Abridged Listing of the American Association of Motor Vehicle Administrators (AAMVA) Violations Exchange Code, which is used by the NDR for recording license denials and withdrawals.

(i) *Fully electronic register system* means an NDR system in which all States that are participating in the NDR have been certified by the agency as participating States.

(j) *Interactive communication* means an active two-way computer connection which allows requesters to receive a response from the NDR almost immediately.

(k) *Match* means the occurrence when the personal identifying information in an inquiry compares with the personal identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Probable Identification.

(l) *Non-minimum age driver license applicant* means a driver license applicant who is past the minimum age to apply for a license in the State making an NDR inquiry.

(m) *Non-PDPS State* means a State which operates under the old NDR by submitting complete substantive adverse driver licensing data to the NDR.

(n) *Participating State* means a State that has notified the agency of its intention to participate in the PDPS and has been certified by the agency as being in compliance with the requirements of Section 30304 of Title 49, United States Code and § 1327.5 of this part.

(o) *Personnel security investigation* means an investigation of an individual

for the purpose of assisting in the determination of the eligibility of the individual for access to national security information under the authority of Executive Order No. 12968, or any successor Executive order, or for Federal employment in a position requiring access to national security information under the authority of Executive Order No. 10450, or any successor Executive order.

(p) *Pointer record* means a report containing the following data:

(1) The legal name, date of birth (including month, day, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(2) The name of the State transmitting such information; and

(3) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number).

(q) *Probable identification* means the occurrence when the personal identifying information in an inquiry compares with the identifying information on a record in the NDR file such that there is a high probability that the individual identified on both records is the same person. See Match.

(r) *Problem Driver Pointer System (PDPS)* means a system whereby the NDR causes information regarding the motor vehicle driving records of individuals to be exchanged between the State which took adverse action against a driver (State of Record) and the State requesting the information (State of Inquiry).

(s) *PDPS State* means a State which participates in the PDPS by submitting pointer records for inclusion in the NDR file and by providing information to States of Inquiry as a State of Record.

(t) *Rapid Response System* means an interactive inquiry capability of the NDR system used by non-PDPS States.

(u) *Remote job entry* means an automated communication method in which information is transmitted in batches (usually a large number of records) and responses are also trans-

mitted in batches, all within a 24-hour period.

(v) *State of inquiry* means the State submitting an inquiry to the NDR to determine if it contains information regarding a driver license applicant.

(w) *State of record* means the State which took an adverse action against a driver and transmitted identification data regarding the driver to the NDR, in accordance with §1327.5(a) of this part.

(x) *Substantive adverse action data, substantive adverse driver licensing data and substantive data* mean data which give the details regarding a State's revocation, suspension, denial or cancellation of a driver's license, or the conviction of a driver, such as date, reason, eligible/restoration date, etc.

(y) *Transportation safety purposes* means information requests submitted on behalf of other parties authorized by the NDR Act of 1982, as amended, to receive NDR information.

(z) *Transition period* means the period which began on July 11, 1985 and will continue until a fully electronic register system is established, but not later than April 30, 1995.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 70 FR 43755, July 29, 2005; 70 FR 52298, Sept. 2, 2005]

#### § 1327.4 Certification, termination and reinstatement procedures.

(a) *Certification requirement.* Only States that have been certified by NHTSA as participating States under PDPS may participate in the NDR. NHTSA will remove all records on file and will not accept any inquiries or reports from a State that has not been certified as a participating State.

(b) *Termination or cancellation.* (1) If a State finds it necessary to discontinue participation, the chief driver licensing official of the participating State shall notify NHTSA in writing, providing the reason for terminating its participation.

(2) The effective date of termination will be no less than 30 days after notification of termination.

(3) NHTSA will notify any participating State that changes its operations such that it no longer meets statutory and regulatory requirements, that its certification to participate in

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the NDR will be withdrawn if it does not come back into compliance within 30 days from the date of notification.

(4) If a participating State does not come back into compliance with statutory and regulatory requirements within the 30-day period, NHTSA will send a letter to the chief driver licensing official cancelling its certification to participate in the NDR.

(5) NHTSA will remove all records on file and will not accept any inquiries or reports from a State whose participation in the NDR has been terminated or cancelled.

(6) To be reinstated as a participating State after being terminated or cancelled, the chief driver licensing official shall follow the notification procedures in paragraphs (c)(1) and (3) of this section and must be re-certified by NHTSA as a participating State under PDPS, upon a determination by NHTSA that the State complies with the statutory and regulatory requirements for participation, in accordance with paragraphs (c)(2) and (4) of this section.

(c) *Reinstatement.* (1) The chief driver licensing official of a State that wishes to be reinstated as a participating State in the NDR under the PDPS shall send a letter notifying NHTSA that the State wishes to be reinstated as a participating State and certifying that the State intends to be bound by the requirements of Section 30304 of Title 49, United States Code and §1327.5. The letter shall also describe the changes necessary to meet the statutory and regulatory requirements of PDPS.

(2) NHTSA will acknowledge receipt of the State's notification within 20 days after receipt.

(3) The chief driver licensing official of a State that has notified NHTSA of its intention to be reinstated as a participating State will, at such time as it has completed all changes necessary to meet the statutory and regulatory requirements of PDPS, certify this fact to the agency.

(4) Upon receipt, review and approval of certification from the State, NHTSA will recertify the State as a participating State under PDPS.

(d) *New notification.* (1) NHTSA may, in its discretion, require in writing that a participating State submit a

new notification, certifying that it intends to be bound by the requirements of Section 30304 of Title 49, United States Code and §1327.5. The agency will exercise its discretion to require this notification when statutory changes have altered a participating State's reporting or inquiry requirements under Section 30304 of Title 49, United States Code.

(2) After receiving a written request from NHTSA under paragraph (d)(1) of this section, a participating State will have 90 days to submit the requested notification. If a participating State does not submit the requested notification within the 90-day time period, NHTSA will send a letter to the chief driver licensing official of a State canceling its status as a participating State.

[65 FR 45716, July 25, 2000, as amended at 70 FR 43755, July 29, 2005]

### § 1327.5 Conditions for becoming a participating State.

(a) *Reporting requirements.* (1) The chief driver licensing official in each participating State shall transmit to the NDR a report regarding any individual—

(i) Who is denied a motor vehicle operator's license by such State for cause;

(ii) Whose motor vehicle operator's license is canceled, revoked, or suspended by such State for cause; or

(iii) Who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) Operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) Failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) Perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

(2) A report shall not be transmitted by the chief driver licensing official of a participating State, regarding an individual, unless that individual has had his or her motor vehicle operator's license denied, canceled, revoked, or suspended for cause as represented by the codes in appendix A, part I, of this part, or been convicted of a motor vehicle-related offense as represented by the codes in appendix A, part II, of this part. Unless the report transmitted to the NDR is based on these codes, NHTSA will contact the participating State responsible for the record and request its removal from the NDR.

(3) Any report regarding any individual which is transmitted by a chief driver licensing official pursuant to this requirement shall contain the following data:

(i) The legal name, date of birth (including day, month, and year), sex, (and if the State collects such data) height, weight, and color of eyes;

(ii) The name of the State transmitting such information; and

(iii) The social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number); except that

(iv) Any report concerning an occurrence identified in paragraph (a)(1) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(4) These records, defined as pointer records, shall be transmitted by the chief driver licensing official to the NDR not later than 31 days after the adverse action information is received by the motor vehicle department or 6 months after the date on which such State becomes a participating State.

(5) No State will be required to report information concerning an occurrence which happened before the two-year period preceding the date on which the State becomes a participating State.

(b) *State of inquiry function for driver licensing and driver improvement pur-*

*poses.* (1) The chief driver licensing official of a participating State shall submit an inquiry to both the NDR and the Commercial Driver's License Information System for each driver license applicant before issuing a license to that applicant. The issuance of a license includes but is not limited to any original, renewal, temporary, or duplicate license that results in a grant or extension of driving privileges in a participating State.

(2) The chief driver licensing official of a participating State may submit inquiries for other driver licensing and driver improvement purposes.

(c) *State of inquiry function for transportation safety purposes (on behalf of other authorized users).* The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from the following groups which are authorized to receive information from the NDR file through participating States:

(1) National Transportation Safety Board (NTSB) and Federal Highway Administration (FHWA) for accident investigation purposes. The Chairman of the NTSB and/or the Administrator of the FHWA shall submit requests for NDR searches in writing through the participating State with which previous arrangements have been made to process these requests. The chief driver licensing official shall provide to the requesting agency the NDR response indicating either Probable Identification (match) or No Record Found. In the case of a probable identification, the State of Record will also be identified in the response so that the NTSB or FHWA may obtain additional information regarding the individual's driving record.

(2) Employers and Prospective Employers of individuals licensed to drive a motor vehicle in the State (including Federal Agencies); Federal Aviation Administration regarding any individual who has applied for or received an airman's certificate; the Federal Railroad Administration and employers/prospective employers regarding individuals who are employed or seeking employment as railroad locomotive operators; and the U.S. Coast Guard regarding any individual who holds or

who has applied for a license or certificate of registry under section 7101 of title 46 of the U.S. Code, or a merchant mariner's document under section 7302 of that title, or regarding any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve. Information may not be obtained from the National Driver Register under this paragraph (c) if the information was entered in the Register more than three years before the date of the request unless the information is about a revocation or suspension still in effect on the date of the request.

(i) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the authorized user if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

(A) State that NDR records are to be released;

(B) Specifically state who is authorized to receive the records;

(C) Be signed and dated by the individual or the individual's legal representative;

(D) Specifically state that the authorization is valid for only one search of the NDR; and

(E) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(ii) Any request made by an authorized user may include, in lieu of the actual information described in paragraphs (c)(2)(i) (C) through (E) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid for only one search of the NDR, and specifically stated that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the

authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

(iii) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the authorized user may obtain additional information regarding the individual's driving record.

(3) The head of a Federal department or agency that issues motor vehicle operator's licenses about an individual applicant for a motor vehicle operator's license from such department or agency. The head of the department or agency may request NDR information through the chief driver licensing official of a State and may receive the information, provided the requesting Federal department or agency participates in the NDR as a reporting agency.

(i) A reporting agency is an agency that transmits to the NDR a report regarding any individual who has been denied a motor vehicle operator's license for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle related offenses listed in paragraph (a)(1)(iii) of this section and Appendix A to this part and over whom the department or agency has licensing authority.

(ii) All reports transmitted by a reporting agency shall contain the following data:

(A) The legal name, date of birth (including day, month, and year), sex, and, if available to the agency, height, weight, and eye color;

(B) The name of the agency transmitting such information; and

(C) The social security account number, if used by the reporting agency for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the

operator's social security account number); except that

(D) Any report concerning an occurrence identified in paragraph (c)(3)(i) of this section which occurs during the two-year period preceding the date on which the agency becomes a participating agency shall be sufficient if it contains all such information as is available to the agency on such date.

(4) Individuals who wish to learn what information about themselves, if any, is in the NDR file, or whether and to whom such information has been disclosed.

(i) Upon receiving a request for an NDR search from an individual for information concerning himself or herself, the chief driver licensing official shall inform the individual of the procedure for conducting such a search and provide the individual a request form which, when properly completed, will be forwarded to the NDR either by the chief driver licensing official or by the individual.

(ii) The request form provided by the chief driver licensing official to the individual must provide for the following:

- (A) Full legal name;
- (B) Other names used (nicknames, professional name, maiden name, etc.);
- (C) Month, day and year of birth;
- (D) Sex;
- (E) Height;
- (F) Weight;
- (G) Color of eyes;
- (H) Social Security Number (SSN) and/or driver license number (provision of SSN is voluntary);
- (I) Individual's full address;
- (J) Home and office telephone number (provision of telephone number is voluntary);
- (K) Signature;
- (L) Proof of identification—Acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State; and
- (M) Notarization—This is required only if the individual chooses to mail the request directly to the NDR.

(iii) Upon receipt of the individual's request for a NDR file check, NHTSA will search its computer file and mail the results (*i.e.*, notification of no

record found or copies of any records found) directly to the individual.

(iv) The chief driver licensing official shall advise the requesting individual to contact the Chief, National Driver Register by mail or telephone for guidance regarding the procedure for alteration or correction of NDR-maintained records in the event he or she believes they are incorrect.

(d) *Personnel security investigations.* The chief driver licensing official of a participating State shall provide for and establish routine procedures and forms to accept requests for NDR file checks from individuals subject to personnel security investigations and from Federal departments or agencies that are authorized to perform personnel security investigations. These authorized users may receive information from the NDR file through participating States.

(1) The procedures or forms developed by the chief driver licensing official to facilitate NDR searches for these authorized users shall provide for the request to be made by the individual or by the Federal department or agency if the individual first consented to the search in writing. Any request to the chief driver licensing official and any written consent by the individual shall:

- (i) State that NDR records are to be released;
- (ii) Specifically state who is authorized to receive the records;
- (iii) Be signed and dated by the individual or individual's legal representative;
- (iv) Specifically state that the authorization is valid only for the duration of the personnel security investigation; and
- (v) Specifically state that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(2) Any request made by a Federal department or agency may include, in lieu of the actual information described in paragraphs (d)(1)(iii) through (v) of this section, a certification that a written consent was signed and dated by the individual or the individual's legal representative, specifically stated that the authorization is valid only for the duration of the personnel security

investigation, and specifically stated that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record.

(3) The chief driver licensing official shall provide to the authorized user a response indicating either Probable Identification (match) or No Record Found. In the case of probable identification, the State of Record will also be included in the response so that the Federal department or agency may obtain additional information regarding the individual's driving record.

(e) *State of record functions.* The chief driver licensing official of a participating State shall implement the necessary computer system and procedures to respond to requests for driver record information. When a request to the NDR results in a match, the chief driver licensing official of a participating State shall also:

(1) Provide a driver status response interactively to the State of Inquiry or the NDR upon receipt of a request for this response from the NDR;

(2) Provide a Driver History Record from its file to the State of Inquiry upon receipt of a request for this record from the State of Inquiry; and

(3) Forward a driver license abstract (full motor vehicle record) to the State of Inquiry upon receipt of a request for this record either from the NDR or directly from the State of Inquiry, and to other authorized users upon receipt of a request directly from the user.

[56 FR 41403, Aug. 20, 1991, as amended at 62 FR 63657, Dec. 2, 1997; 64 FR 19271, Apr. 20, 1999; 70 FR 43755, July 29, 2005; 70 FR 52299, Sept. 2, 2005; 71 FR 19826, Apr. 18, 2006]

**§ 1327.6 Conditions and procedures for other authorized users of the NDR.**

(a) *NTSB and FHWA.* To initiate an NDR file check before a fully electronic Register system has been established, the National Transportation Safety Board or the Federal Highway Administration (Office of Motor Carriers) shall submit a request for such check to the State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. To initiate an NDR file check once a fully electronic Register system has been es-

tablished, the NTSB or FHWA shall submit a request for such check to the participating State with which previous arrangements have been made, in accordance with procedures established by that State for this purpose. The NTSB or FHWA may also submit a request for an NDR file check to the NDR directly.

(b) *Federal departments or agencies that issue motor vehicle operator's licenses.* To initiate an NDR file check, a Federal department or agency that issues motor vehicle operator's licenses shall submit a request for such check to a participating State, in accordance with procedures established by that State for this purpose. The Federal department or agency that issues motor vehicle operator's licenses may also submit a request for an NDR file check to the NDR directly, in accordance with procedures established by the NDR for that purpose.

(c) *Employers or prospective employers of motor vehicle operators (including Federal Agencies).* (1) To initiate an NDR file check, the individual who is employed or seeking employment as a motor vehicle operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the employer/prospective employer shall make the information available to the employee/prospective employee.

(3) In the case of a match (probable identification), the employer/prospective employer should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the employee/prospective employee before using the information as the basis for any action against the individual.

(d) *Federal Aviation Administration.* (1) To initiate an NDR file check, the individual who has applied for or received an airman's certificate shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FAA shall make the information available to the airman for review and written comment.

(3) In the case of a match (probable identification), the FAA should obtain the substantive data relating to the record from the State of Record and verify that the person named on the



probable identification is in fact the airman concerned before using the information as the basis of any action against the individual.

(e) *Federal Railroad Administration and/or employers or prospective employers of railroad locomotive operators.* (1) To initiate an NDR file check, the individual employed or seeking employment as a locomotive operator shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the FRA or the employer/prospective employer, as applicable, shall make the information available to the individual.

(3) In the case of a match (probable identification), the FRA or the employer/prospective employer, as applicable, should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(f) *U.S. Coast Guard.* (1) To initiate an NDR file check, the individual who holds or who has applied for a license, certificate of registry, or a merchant mariner's document or the officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR response, the U.S. Coast Guard shall make the information available to the individual for review and written comment before denying, suspending or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, U.S. Code.

(3) In the case of a match (probable identification), the U.S. Coast Guard should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(g) *Air carriers.* (1) To initiate an NDR file check, the individual seeking em-

ployment as a pilot with an air carrier shall follow the procedures specified in § 1327.7 and also must specifically state that, pursuant to Section 502 of the Pilot Records Improvement Act of 1996, Public Law 104-264, 110 Stat. 3259 (49 U.S.C. 30305), the request (or written consent) serves as notice of a request for NDR information concerning the individual's motor vehicle driving record and of the individual's right to receive a copy of such information.

(2) Air carriers that maintain, or request and receive NDR information about an individual must provide the individual a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(3) In the case of a match (probable identification), the air carrier should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis of any action against the individual.

(h) *Federal departments or agencies conducting personnel security investigations.* (1) To initiate an NDR file check, an individual who has or is seeking access to national security information for purposes of Executive Order No. 12968, or any successor Executive order, or an individual who is being investigated for Federal employment under authority of Executive Order No. 10450, or any successor Executive order shall follow the procedures specified in § 1327.7.

(2) Upon receipt of the NDR information, the Federal department or agency should make information from the State of Record available to the individual for review and comment.

(3) In the case of a match (probable identification), the Federal department or agency conducting the personnel security investigation should obtain the substantive data relating to the record from the State of Record and verify that the person named on the probable identification is in fact the individual concerned before using the information as the basis for any action against the individual.

(4) A Federal department or agency that receives information about an individual under this section may use such information only for purposes of the authorized investigation and only in accordance with applicable law.

(i) *Third parties.* If a third party is used by any of the above authorized users to request the NDR check, both the individual concerned and an authorized representative of the authorized user organization shall sign a written consent authorizing the third party to act in this role. The written consent must:

(1) State that NDR records are to be released;

(2) State as specifically as possible who is authorized to request the records, and that such party is not authorized to receive NDR information;

(3) Be signed and dated by the individual (or legal representative as appropriate) and an authorized representative of the authorized user organization;

(4) Specifically state that the request authorization is valid for only one search of the NDR; and

(5) Specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the authorized recipient of the information verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy. The third party may not, however, receive the NDR response to a file search.

(j) *Individuals.* (1) When a check of the NDR is desired by any individual in order to determine whether the NDR is disclosing any data regarding him or her or the accuracy of such data, or to obtain a copy of the data regarding him or her, the individual shall submit his or her request to a participating State in accordance with the procedures established by that State for this purpose.

(2) The individual will be asked to provide the following information to the chief driver licensing official in order to establish positive identification:

(i) Full legal name;

(ii) Other names used (nickname, professional name, maiden name, etc.);

(iii) Month, day and year of birth;

(iv) Sex;

(v) Height;

(vi) Weight;

(vii) Color of eyes;

(viii) Driver license number and/or Social Security Number (SSN) (provision of SSN is optional);

(ix) Full address;

(x) Signature;

(xi) Proof of identification (acceptable forms of identification are driver's license, birth certificate, credit card, employee identification card, and other forms of identification normally accepted by the State); and

(xii) Notarization (this is required only if the individual chooses to mail the request directly to the NDR).

(3) Individuals are authorized also, under the Privacy Act of 1974, to request such information directly from the NDR.

(4) Individuals seeking to correct an NDR-maintained record should address their request to the chief of the National Driver Register. When any information contained in the Register is confirmed by the State of Record to be in error, the NDR will correct the record accordingly and advise all previous recipients of the information that a correction has been made.

[56 FR 41403, Aug. 20, 1991; 56 FR 57255, 57374, Nov. 8, 1991; 62 FR 27195, May 19, 1997; 62 FR 63657, Dec. 2, 1997; 63 FR 153, Jan. 5, 1998; 64 FR 19272, Apr. 20, 1999; 70 FR 52299, Sept. 2, 2005]

#### § 1327.7 Procedures for NDR information requests.

(a) To initiate an NDR file check, an individual who is employed or seeking employment as a motor vehicle operator; who has applied for or received an airman's certificate; who is employed or seeking employment as a locomotive operator; who holds or has applied for a license, certificate of registry, or a merchant mariner's document or is an officer, chief warrant officer, or enlisted member of the U.S. Coast Guard or Coast Guard Reserve; or who is seeking employment as pilot with an air carrier; or an individual subject to a personnel security investigation; shall either:

(1) Complete, sign and submit a request for an NDR file check directly to the chief driver licensing official of a participating State in accordance with procedures established by that State for this purpose; or

(2) Authorize, by completing and signing a written consent, the authorized NDR user to request a file check through the chief driver licensing official of a participating State in accordance with the procedures established by that State for this purpose.

(b) If the authorized NDR user is an employer or prospective employer of a motor vehicle operator, the request for an NDR file check must be submitted through the chief driver licensing official of the State in which the individual is licensed to operate a motor vehicle.

(c) If the authorized NDR user is the head of a Federal department or agency, the request for an NDR file check may be submitted instead directly to the NDR in accordance with procedures established by the NDR for this purpose.

(d) The request for an NDR file check or the written consent, whichever is used, must:

(1) State that the NDR records are to be released;

(2) State as specifically as possible who is authorized to receive the records;

(3) Be signed and dated by the individual (or the individual's legal representative as appropriate);

(4) Specifically state that the authorization is valid for only one search of the NDR (or in the case of a personnel security investigation state that the authorization is valid only for the duration of the investigation); and

(5) Except for inquiries concerning personnel security investigations, specifically state that the NDR identifies probable matches that require further inquiry for verification; that it is recommended, but not required, that the employer/prospective employer verify matches with the State of Record; and that individuals have the right to request records regarding themselves from the NDR to verify their accuracy.

[64 FR 19273, Apr. 20, 1999, as amended at 70 FR 52299, Sept. 2, 2005]

APPENDIX A TO PART 1327—ABRIDGED LISTING OF THE AMERICAN ASSOCIATION OF MOTOR VEHICLE ADMINISTRATORS VIOLATIONS EXCHANGE CODE, USED BY THE NDR FOR RECORDING DRIVER LICENSE DENIALS, WITHDRAWALS, AND CONVICTIONS OF MOTOR VEHICLE-RELATED OFFENSES

*Code*

PART I—FOR CAUSE WITHDRAWALS

- A04 Driving under the influence of alcohol with BAC at or over .04
- A08 Driving under the influence of alcohol with BAC at or over .08
- A10 Driving under the influence of alcohol with BAC at or over .10
- A11 Driving under the influence of alcohol with BAC at or over\_\_ (detail field required)
- A12 Refused to submit to test for alcohol—Implied Consent Law
- A20 Driving under the influence of alcohol or drugs
- A21 Driving under the influence of alcohol
- A22 Driving under the influence of drugs
- A23 Driving under the influence of alcohol and drugs
- A24 Driving under the influence of medication not intended to intoxicate
- A25 Driving while impaired
- A26 Drinking alcohol while operating a vehicle
- A31 Illegal possession of alcohol
- A33 Illegal possession of drugs (controlled substances)
- A35 Possession of open alcohol container
- A41 Driver violation of ignition interlock or immobilization device
- A50 Motor vehicle used in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance
- A60 Underage Convicted of Drinking and Driving at .02 or higher BAC
- A61 Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC
- A90 Administrative Per Se for .10 BAC
- A94 Administrative Per Se for .04 BAC
- A98 Administrative Per Se for .08 BAC
- B01 Hit and run—failure to stop and render aid after accident
- B02 Hit and run—failure to stop and render aid after accident—Fatal accident
- B03 Hit and run—failure to stop and render aid after accident—Personal injury accident
- B04 Hit and run—failure to stop and render aid after accident—Property damage accident
- B05 Leaving accident scene before police arrive
- B06 Leaving accident scene before police arrive—Fatal accident

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- B07 Leaving accident scene before police arrive—Personal injury accident
- B08 Leaving accident scene before police arrive—Property damage accident
- B14 Failure to reveal identity after fatal or personal injury accident
- B19 Driving while out of service order is in effect and transporting 16 or more passengers including the driver and/or transporting hazardous materials that require a placard
- B20 Driving while license withdrawn
- B21 Driving while license barred
- B22 Driving while license canceled
- B23 Driving while license denied
- B24 Driving while license disqualified
- B25 Driving while license revoked
- B26 Driving while license suspended
- B27 General, driving while an out of service order is in effect (for violations not covered by B19)
- B41 Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID
- B51 Expired or no driver license (includes DL, CDL, and Instruction Permit)
- B56 Driving a CMV without obtaining a CDL
- B63 Failed to file future proof of financial responsibility
- B91 Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit)
- D02 Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit)
- D06 Misrepresentation of identity or other facts to obtain alcohol
- D07 Possess multiple driver licenses (includes DL, CDL, and Instruction Permit)
- D16 Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit)
- D27 Violate limited license conditions
- D29 Violate restrictions of driver license (includes DL, CDL, and Instruction Permit)
- D35 Failure to comply with financial responsibility law
- D38 Failure to post security or obtain release from liability
- D39 Unsatisfied judgment
- D45 Failure to appear for trial or court appearance
- D53 Failure to make required payment of fine and costs
- D56 Failure to answer a citation, pay fines, penalties and/or costs related to the original violation
- D72 Inability to control vehicle
- D74 Operating a motor vehicle improperly because of drowsiness
- D75 Operating a motor vehicle improperly due to physical or mental disability
- D78 Perjury about the operation of a motor vehicle
- E03 Operating without HAZMAT safety equipment as required by law
- F02 Child or youth restraint not used properly as required
- F03 Motorcycle safety equipment not used properly as required
- F04 Seat belt not used properly as required
- F05 Carrying unsecured passengers in open area of vehicle
- F06 Improper operation of or riding on a motorcycle
- M09 Failure to obey railroad crossing restrictions
- M10 For all drivers, failure to obey a traffic control device or the directions of an enforcement official at a railroad-highway grade crossing
- M20 For drivers who are not required to always stop, failure to slow down at a railroad-highway grade crossing and check that tracks are clear of approaching train
- M21 For drivers who are not required to always stop, failure to stop before reaching tracks at a railroad-highway grade crossing when the tracks are not clear
- M22 For drivers who are always required to stop, failure to stop as required before driving onto railroad-highway grade crossing
- M23 For all drivers, failing to have sufficient space to drive completely through the railroad-highway grade crossing without stopping
- M24 For all drivers, failing to negotiate a railroad-highway grade crossing because of insufficient undercarriage clearance
- M80 Reckless, careless, or negligent driving
- M81 Careless driving
- M82 Inattentive driving
- M83 Negligent driving
- M84 Reckless driving
- S01 01–05 > Speed limit (detail optional)
- S06 06–10 > Speed limit (detail optional)
- S15 Speeding 15 mph or more above speed limit (detail optional)
- S16 16–20 > Speed limit (detail optional)
- S21 21–25 > Speed limit (detail optional)
- S26 26–30 > Speed limit (detail optional)
- S31 31–35 > Speed limit (detail optional)
- S36 36–40 > Speed limit (detail optional)
- S41 41+ > Speed limit (detail optional)
- S51 01–10 > Speed limit (detail optional)
- S71 21–30 > Speed limit (detail optional)
- S81 31–40 > Speed limit (detail optional)
- S91 41+ > Speed limit (detail optional)
- S92 Speeding—Speed limit and actual speed (detail required)
- S93 Speeding
- S94 *Prima Facie* speed violation or driving too fast for conditions
- S95 Speed contest (racing) on road open to traffic
- S97 Operating at erratic or suddenly changing speeds
- U01 Fleeing or evading police or roadblock
- U02 Resisting arrest

- U03 Using a motor vehicle in connection with a felony (not traffic offense)
  - U05 Using a motor vehicle to aid and abet a felon
  - U06 Vehicular assault
  - U07 Vehicular homicide
  - U08 Vehicular manslaughter
  - U09 Negligent homicide while operating a CMV
  - U10 Causing a fatality through the negligent operation of a CMV
  - U31 Violation resulting in fatal accident
  - W01 Accumulation of convictions (including point systems and/or being judged a habitual offender or violator)
  - W14 Physical or mental disability
  - W20 Unable to pass DL test(s) or meet qualifications
  - W30 Two serious violations within three years
  - W31 Three serious violations within three years
  - W40 The accumulation of two or more major offenses
  - W41 An additional major offense after reinstatement
  - W50 The accumulation of two out-of-service order general violations (violations not covered by W51) within ten years
  - W51 The accumulation of two out-of-service order violations within ten years while transporting 16 or more passengers, including the driver and/or transporting hazardous materials that require a placard
  - W52 The accumulation of three or more out-of-service order violations within ten years
  - W60 The accumulation of two RRGV violations within three years.
  - W61 The accumulation of three or more RRGV violations within three years.
  - W70 Imminent hazard
- PART II—CONVICTIONS
- A04 Driving under the influence of alcohol with BAC at or over .04
  - A08 Driving under the influence of alcohol with BAC at or over .08
  - A10 Driving under the influence of alcohol with BAC at or over .10
  - A11 Driving under the influence of alcohol with BAC at or over \_\_\_\_ (detail field required)
  - A12 Refused to submit to test for alcohol—Implied Consent Law
  - A20 Driving under the influence of alcohol or drugs
  - A21 Driving under the influence of alcohol
  - A22 Driving under the influence of drugs
  - A23 Driving under the influence of alcohol and drugs
  - A24 Driving under the influence of medication not intended to intoxicate
  - A25 Driving while impaired
  - A26 Drinking alcohol while operating a vehicle
  - A31 Illegal possession of alcohol
  - A33 Illegal possession of drugs (controlled substances)
  - A35 Possession of open alcohol container
  - A41 Driver violation of ignition interlock or immobilization device
  - A50 Motor vehicle used in the commission of a felony involving the manufacturing, distributing, or dispensing of a controlled substance
  - A60 Underage Convicted of Drinking and Driving at .02 or higher BAC
  - A61 Underage Administrative Per Se—Drinking and Driving at .02 or higher BAC
  - A90 Administrative Per Se for .10 BAC
  - A94 Administrative Per Se for .04 BAC
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  - B04 Hit and run—failure to stop and render aid after accident—Property damage accident
  - B05 Leaving accident scene before police arrive
  - B06 Leaving accident scene before police arrive—Fatal accident
  - B07 Leaving accident scene before police arrive—Personal injury accident
  - B08 Leaving accident scene before police arrive—Property damage accident
  - B14 Failure to reveal identity after fatal or personal injury accident
  - B19 Driving while out of service order is in effect and transporting 16 or more passengers including the driver and/or transporting hazardous materials that require a placard
  - B20 Driving while license withdrawn
  - B21 Driving while license barred
  - B22 Driving while license canceled
  - B23 Driving while license denied
  - B24 Driving while license disqualified
  - B25 Driving while license revoked
  - B26 Driving while license suspended
  - B27 General, driving while an out of service order is in effect (for violations not covered by B19)
  - B41 Possess or provide counterfeit or altered driver license (includes DL, CDL, and Instruction Permit) or ID
  - B51 Expired or no driver license (includes DL, CDL, and Instruction Permit)
  - B56 Driving a CMV without obtaining a CDL
  - B91 Improper classification or endorsement on driver license (includes DL, CDL, and Instruction Permit)
  - D02 Misrepresentation of identity or other facts on application for driver license (includes DL, CDL, and Instruction Permit)
  - D06 Misrepresentation of identity or other facts to obtain alcohol

- D07 Possess multiple driver licenses (includes DL, CDL, and Instruction Permit)
- D16 Show or use improperly—Driver license (includes DL, CDL, and Instruction Permit)
- D27 Violate limited license conditions
- D29 Violate restrictions of driver license (includes DL, CDL, and Instruction Permit)
- D72 Inability to control vehicle
- D78 Perjury about the operation of a motor vehicle
- E03 Operating without HAZMAT safety equipment as required by law
- M09 Failure to obey railroad crossing restrictions
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- M80 Reckless, careless, or negligent driving
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- M83 Negligent driving
- M84 Reckless driving
- S95 Speed contest (racing) on road open to traffic
- U07 Vehicular homicide
- U08 Vehicular manslaughter
- U09 Negligent homicide while operating a CMV
- U10 Causing a fatality through the negligent operation of a CMV
- U31 Violation resulting in fatal accident

[70 FR 43756, July 29, 2005]

#### APPENDIX B TO PART 1327—OMB CLEARANCE

The OMB clearance number of this regulation is OMB 2127–0001.

### PART 1335—STATE HIGHWAY SAFETY DATA IMPROVEMENTS

Sec.  
1335.1 Scope.

- 1335.2 Purpose.
- 1335.3 Definitions.
- 1335.4 Coordinating committee.
- 1335.5 Assessment.
- 1335.6 Strategic plan.
- 1335.7 Grant requirements.
- 1335.8 Grant amounts.
- 1335.9 Availability of funds.
- 1335.10 Grant limitations.
- 1335.11 Application procedures.
- 1335.12 Contents of application.

AUTHORITY: 23 U.S.C. 411; delegation of authority at 49 CFR 1.48.

SOURCE: 63 FR 54048, Oct. 8, 1998, unless otherwise noted.

#### § 1335.1 Scope.

This part prescribes the requirements necessary to implement Section 411 of Title 23, United States Code, which encourages States to adopt and implement effective data improvement programs.

#### § 1335.2 Purpose.

The purpose of this part is to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data needed by each State to identify highway safety priorities; to evaluate the effectiveness of these improvements; to link highway safety data systems with other data systems within each State; and to improve the compatibility of the data system of each State with national data systems and data systems of other States to enhance the observation and analysis of national trends in crash occurrences, rates, outcomes, and circumstances.

#### § 1335.3 Definitions.

As used in this part:

(a) *Highway safety data and traffic records* means data and records relating to crashes, roadways, drivers, vehicles, traffic offense citations/convictions, emergency medical services, locations and other data and records relating to highway safety.

(b) *Coordinating committee* means a committee that meets the requirements of § 1335.4 of this part.

(c) *Assessment* means a review of a State's highway safety data and traffic records system that meets the requirements of § 1335.5 of this part. For the purpose of this Part, an assessment includes an audit or a strategic planning analysis.